

1. Fourth Judicial District Guidelines for the Guardian ad Litem
2. Dealing with Divorce
3. Missoulain article - Helping Domestic Violence Victims
4. Planet Kids Supervised Visitation Order
5. Order Appointing Guardian ad Litem
6. Guardian ad Litem Report and Recommendations to the Court
7. Fourth Judicial District Parenting Guidelines
8. Order Appointing Settlement Master/Mediator

## **FOURTH JUDICIAL DISTRICT GUIDELINES FOR THE GUARDIAN AD LITEM**

Once appointed by the Court to serve as a Guardian ad Litem (GAL), the GAL assumes significant responsibility to a child, a family, to counsel, and to the Court. The Fourth Judicial District has established twelve (12) Guidelines to govern the Court-appointed GAL, in domestic relation cases. These twelve (12) Guidelines shall be implemented in this jurisdiction and shall be adopted as a Local District Court Rule.

1. The appointment of a GAL for children from birth to three years of age is a priority.
2. The GAL shall conduct investigations that the GAL considers necessary to ascertain the facts related to the child's support, parenting, and parental contact. A GAL should anticipate ten - fifteen hours. for an initial investigation and report.
3. The GAL shall interview or observe the child who is the subject of the proceeding. Investigations shall include a minimum of a one-hour office consultation with each parent, a home visit, an observed interaction with each parent and child, collateral source interviews including school personnel, therapist, and up to three (3) individuals identified by each party. The GAL shall document these interviews and times on each billing statement.
4. If a GAL chooses not to interview individuals identified by either party, the GAL shall inform the parties of that decision and the rationale for that decision. When possible, the GAL shall communicate equally with both parties.
5. The GAL has access to Court, medical, psychological, law enforcement, social services, and school records pertaining to the child and the child's siblings and parents or caretakers. The GAL should have access to Full Court to ascertain information regarding any related criminal, dependent-neglect, or sanity proceedings.

6. The GAL shall make written reports and timely updates to the Court and parties, concerning the child's support, parenting, and parental contact. If a deficiency in a party's parenting is noted, the GAL shall advise that party of the concern as early into the investigation as possible.
7. The GAL shall appear and participate in all proceedings to the degree necessary to adequately represent the child and to make recommendations to the Court concerning the child's support, parenting, and parental contact.
8. The GAL shall perform other duties as directed by the Court. However, the GAL shall not provide direct services to the child or to the parents. This includes therapy, supervised visitation, or counseling. If a need for direct service is identified, the GAL shall advise the parties and recommend possible resources.
9. The GAL shall issue Recommendations to the Court. The GAL may not issue Orders. Orders shall issue exclusively from a Judge or Standing Master.
10. The Court shall enter an Order for costs and fees in favor of the child's GAL. The Order must be made against either or both parents, except that if the responsible party is indigent, the costs must be waived.
11. Once the Court Orders a parenting schedule, the GAL is available to explain the Order and establish use of the Parenting Plan. However, the GAL shall not renegotiate the Order or modify the Plan.
12. Any objection to the GAL's working relationship with either of the parties, must be submitted to the Court in writing, prior to the GAL's having issued Recommendations. The Court will then conduct a hearing to determine whether the GAL should be substituted.

John W. Larson  
District Judge  
Fourth Judicial District  
Dept. 3  
johlarson@mt.gov



Missoula County Courthouse  
200 West Broadway  
Missoula, MT 59802  
(406) 258-4773  
Fax: (406) 258-4739

Dear Parent:

Your case has been flagged because it involves a young child. Our court is paying special attention to cases involving young children because of research that indicates attachment and brain development at this stage is critical. A child's brain is undeveloped at birth, and organizes 85% of its core brain structures during the first three years in accordance with the child's experiences. Young children who fail to develop healthy attachments due to sudden separation, poor parenting skills, inconsistent or inadequate day care, chronic maternal depression, neglect or abandonment, frequent moves, abuse, or other trauma are at risk for problems later in life.

As a parent, there are things you can do. Be the best parent you can be when you are with your child. If you feel stressed, depressed or otherwise need assistance with parenting issues, get help from a trusted friend, counselor, support group or parenting class. Do it now, while you have the most influence over your child's brain development. Also, help your child maintain a healthy relationship with the other parent. Try to maintain a normal schedule and routine during the separation process as much as possible. Unless there has been abuse, it's important to recognize that your child needs both parents. The more you cooperate with and support the other parent, the better life will be for your child as he or she grows up. In fact, the single most destructive part of divorce on a child is parental conflict - a variable which you have some control over. Parental conflict puts children at risk for suffering and maladjustment later in life.

A number of resources are available through the court and community to help parents with conflict and parenting issues. Sample parenting schedules that take into consideration a child's need for attachment are available for your consideration as you develop a parenting plan in mediation. In addition, parenting classes and parental supports can help parents improve skills that will help children's brain development. Please take advantage of the resources listed in the "Parent Resources" sheet enclosed with this letter and on another court's website at: <http://www.ojd.state.or.us/mar/familylaw/ParentResources.htm>  
Relevant portions are attached to this letter.

I expect both parents to focus on solutions that will serve the best interests of your child. If there are safety concerns, these issues should be brought to the court's attention. I appreciate your attention to these important issues.

Very truly yours,

John W. Larson  
District Court Judge

## Dealing With Divorce

**Top 10 list of things parents can do to help their children adjust to family change:**

1. Offer simple explanations about the changes in the family. Children especially need to hear what will *not* change, i.e. will attend same school, will continue with swimming lessons, will keep their dog, etc.
2. Reassure children many, many times that the changes are not their fault. They didn't cause it, they can't fix it, but you will help them cope. You can't say this enough.
3. Help your children accept that divorce is a final decision.
4. Do not allow your children to become your peers. Avoid confiding in and relying on them as you would a good friend. Children do not do well while attempting to meet adult emotional needs.
5. Do involve your children in household chores and decisions. Tell them that their input is valuable. Feeling needed in this way is a good thing.
6. Do not give up your power as a parent out of guilt. Your children need clear and enforced limits now more than ever. Because the changes cause insecurity, children will test those limits to see if you are for real. Set limits and consequences with calmness and clarity.
7. If one parent drops out of your child's life, say: "I don't know why your mother/father hasn't made arrangements to see you, but I know one thing, it has *nothing* to do with you! You are very lovable and I enjoy being with you very much."
8. Do not criticize the other parent. It directly affects children's identities. They see themselves as half Mom and half Dad. When one parent is labeled stupid or lazy, children assume they must be thought of that way too. And it actually causes them to think less of the criticizer in the long run.
9. Do not put children in the middle by using them as spies when visiting the other parent, by asking them to carry messages back and forth, or by expecting them to take sides between parents.
10. Listen. Take time before bedtime, in the car, on Saturdays to listen. Begin by saying you know it has been hard for them. Repeat their words back to them. Let them know that all their feelings are OK and talking about them really helps.

## CHILDREN BIRTH TO 36 MONTHS

Their age	Their "jobs"	Their needs	Signs of distress: (especially if it goes on for a long time)
Birth – 12 months	<ul style="list-style-type: none"> <li>• To develop trust</li> <li>• To attach to one or more healthy adult (parent, extended family, caregiver)</li> </ul>	<ul style="list-style-type: none"> <li>• Predictability, consistency, and routine</li> <li>• Stable and secure relationships</li> <li>• A healthy attachment to at least one adult</li> </ul>	<ul style="list-style-type: none"> <li>• Excessive crying</li> <li>• Feeding or sleeping problems</li> <li>• Withdrawal</li> <li>• Irritable and depressed</li> </ul>
1 – 3 years	<ul style="list-style-type: none"> <li>• To explore the world</li> <li>• To develop language</li> <li>• To develop control (this is when they say a lot of no's)</li> </ul>	<ul style="list-style-type: none"> <li>• Understanding that they can't remember people who they don't see very often</li> <li>• To know a loving adult is always available</li> <li>• Predictability, routine, and structure</li> <li>• Security, love, and flexibility</li> </ul>	<ul style="list-style-type: none"> <li>• Withdrawal</li> <li>• Crying, clinging that lasts more than twenty minutes after a separation</li> <li>• Changes in eating and toileting</li> <li>• Delay in development</li> </ul>

## SAMPLE PARENTING SCHEDULES

The information and graphs below are samples of parenting time schedules based on children's ages and different parenting styles. They are provided as a tool to give you ideas in order to help you create your own personalized schedule. Parenting time should be scheduled based on the needs of each individual family. You may fill out your own parenting schedule using the blank calendar in the Guide.

**Plan A Samples:** These plans are best suited where one parent has not been the child's primary caregiver and/or wants regular contact but is not able to provide extensive care-giving due to an inflexible work schedule or other circumstance.

**Plan B Samples:** These are best suited for parents who have been involved in the day-to-day care of the child and who want greater contact than is afforded in Level A plans.

**Plan C Samples:** These are best suited for parents who have been involved to a significant extent in the day-to-day care of the child and desire maximum contact.

## BIRTH TO 12 MONTHS

**Plan A (1<sup>st</sup> Option):** Three periods of 3 to 6 hours spaced throughout each week. Frequent contact helps the child bond. (Below is one example of how this can be arranged and written onto your form)

### 2.1 Weekday and Weekend Schedule.

A. Parent A shall be responsible for the children's care:

☒ [ X ] At all times not specified below.

B. Parent B shall be responsible for the children's care on the following days and times:

OTHER: (specify) every Tuesday and Thursday from 4:00p.m. to 7:00 p.m.  
and every Saturday from 10:00 a.m. to 2:00 p.m.

**Plan A (2<sup>nd</sup> Option):** Two 6-hour periods spaced throughout each week. Use when schedules or conflict makes more frequent exchanges difficult. Bonding may be slowed. (Below is one example of how this can be arranged and written onto your form)

### 2.1 Weekday and Weekend Schedule.

A. Parent A shall be responsible for the children's care:

☒ [ X ] At all times not specified below.

B. Parent B shall be responsible for the children's care on the following days and times:

OTHER: (specify) every Sunday from 10:00 a.m. to 4:00 p.m. and Thursday  
from 12:00p.m. to 6:00 p.m.

**Plan B:** Two periods of three to four hours and one 8-hour period spaced throughout each week. (Below is one example of how this can be arranged and written onto your form)

### 2.1 Weekday and Weekend Schedule.

A. Parent A shall be responsible for the children's care:

☒ [ X ] At all times not specified below.

B. Parent B shall be responsible for the children's care on the following days and times:

OTHER: (specify) every Monday and Wednesday from 3:00 p.m. to 6:00 p.m. and every Saturday from 12:00p.m. to 6:00 p.m.

**Plan C:** Two periods of 3 to 6 hours and one overnight each week. (Below is one example of how this can be arranged and written onto your form)

2.1 Weekday and Weekend Schedule.

A. Parent A shall be responsible for the children's care:

☒ [X] At all times not specified below.

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OTHER: (specify) every Monday and Wednesday from 4:00 p.m. to 7:00 p.m. and every Friday overnight from 4:00 p.m. to 9:00 a.m. on Saturday.

## 12 TO 24 MONTHS

**Plan A (1<sup>st</sup> Option):** See BIRTH TO 12 MONTHS, above.

**Plan A (2<sup>nd</sup> Option):** See BIRTH TO 12 MONTHS, above.

**Plan B:** See BIRTH TO 12 MONTHS, above.

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OTHER: (specify) every Monday overnight from 4:00 p.m. to 9:00 a.m. on Tuesday, every Wednesday from 4:00 p.m. to 7:00 p.m. and every Friday overnight from 4:00 p.m. to 9:00 a.m. on Saturday.



## 24 TO 36 MONTHS

**Plan A (1<sup>st</sup> Option):** See Plan B of BIRTH TO 12 MONTHS, above.

**Plan A (2<sup>nd</sup> Option):** See Plan C of BIRTH TO 12 MONTHS, above.

**Plan B:** See Plan C of 12 TO 24 MONTHS, above. Ideally, child should not be separated from either parent for more than 4 days.

**Plan C:** One daytime period of 3 to 6 hours and two non-consecutive overnights each week. Ideally, child should not be separated from either parent for more than 4 days. (Below is one example of how this can be arranged and written onto your form)

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## Missoula Office of Planning and Grants: Helping domestic violence victims

By GWEN FLORIO of the Missoulian [missoulian.com](http://missoulian.com) | Posted: Saturday, January 8, 2011 11:26 pm |

The staff at Planet Kids in Missoula says goodbye to a young father and his two girls last week at the facility that hosts court-ordered supervised visitations between parents and children. Planet Kids also serves as a pick-up and drop-off place for people in contentious custody arrangements. Photo by MICHAEL GALLACHER/Missoulian

No more Cathy Newmans. No more Virginia McDonalds. No more Stephen Hackneys. No more Will Robersons. At least, not if the Missoula Office of Planning and Grants has anything to do with it. The four comprise the fatal toll of domestic violence in Missoula County in the last decade. The only silver lining to that sad number is that it's not higher. For that, it's entirely possible that we all can thank OPG. "We actually have more staff engaged in issues related to victims of violent crime and domestic violence than we do dealing with subdivisions and zoning," said OPG head Mike Barton. "Missoula's best-kept secret," Nancy Rittel, an OPG grants administrator, calls it. Think the "grants" part of the city-county agency's name.

OPG handles roughly \$1 million worth of grants per year dealing directly with those issues, said Cindy Wulfekuhle, OPG's principal grants administrator. The Crime Victims Advocate Office, the Pathways Shelter for domestic violence survivors, the Planet Kids supervised visitation site, the First Step program for adults and children affected by sexual assault and abuse - those and more get federal and state grants obtained by OPG. The agency contracts with Missoula Correctional Services to monitor violent offenders who may pose a danger to their victims, ensures training for professionals dealing various aspects of domestic violence, and directs funds for outreach to rural victims. As planning agencies go, "we're possibly unique in the nation," said Shantelle Gaynor, another OPG grants administrator. That's because when OPG looks at the "planning" part of its mission, it considers not only how and where to locate homes and businesses, but how best to serve those who live and work in them - especially those in distress.

"Quiet issues," Barton called them. "Core issues, something an enlightened community damn well ought to be dealing with." Quiet, at least, until Christmas. On Christmas Eve, at about 3:50 p.m., Jaimi Lynn Hurlbert called Kalispell police and said her former boyfriend, Tyler Michael Cheetham, had threatened to kill her, her family and her friends. Shortly before midnight on Christmas Eve, Kalispell police locked down the Scoreboard Pub and Casino - where Hurlbert worked - for about 45 minutes after Cheetham allegedly showed up and threatened her life. And at 2:57 p.m. on Christmas Day, police got another call about Cheetham, this time from his mother, who said her son had just shot Hurlbert and Hurlbert's 15-year-old daughter, Alyssa Burkett. Even though it happened elsewhere, the news ricocheted through the network of programs in Missoula County that aim to prevent such tragedies. I'm sad," Gaynor said. "Professionally, I have a feeling that the system has let somebody down."

The state Department of Justice compiles the names of such victims for its annual Montana Domestic Violence Fatality Review Commission report. The last decade saw 64 "primary victims" of domestic violence in Montana, according to numbers provided by OPG. Ten of those occurred in Yellowstone County. (Adding others, such as those who committed suicide after killing a partner, or children killed during those incidents, bumps the number to 98.)

Four were in Missoula County: Cathy Newman, Virginia McDonald, Stephen Hackney, Will Roberson. The county's last such killing occurred in 2005, when Debbie Ann Roberson - who said she'd endured years of physical and sexual abuse at her husband's hands - convinced her daughter's 16-year-old

1 John W. Larson, District Judge  
2 Fourth Judicial District Dept. 3  
3 Missoula County Courthouse  
4 Missoula, MT 59802  
5 (406) 258-4773

FILED SEP 20 2007

SHIRLEY E. FAUST, CLERK  
By John W. Larson  
Deputy

6 MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

7 IN RE THE

Dept.  
Cause No. DF. \_\_\_\_\_

8 vs.

9 Petitioner,

**SUPERVISED VISITATION  
ORDER**

10 Respondent.

11 This matter came before the Court upon motion by Petitioner for a  
12 Temporary Order of Protection. The Court hereby finds on that basis and  
13 pursuant to Mont. Code Ann. § 40-4-218 (2), the Court concludes on the  
14 basis of the foregoing findings that exchanges of the child with the  
15 Respondent must be supervised. If both parties want to engage in the  
16 mediation process this may be done through a written agreement signed by  
17 both parties and filed with the Court.

18 WHEREFORE, IT IS HEREBY ORDERED that, unless and until  
19 further order of this Court, the Respondent shall receive only supervised  
20 visits with the following minor child(ren):

21 Name:

22 All supervised visits between Respondent and the child(ren)  
23 shall occur as set out by Planet Kids  
24

25 Location: 337 Stephens (Entrance on Florence St.)  
26 Missoula, MT 59807 (406) 542-3346

1 Expense: Respondent shall deposit funds in the amount of  
2 \$100.00 with Planet Kids Visitation Center within 10 (ten) days after this  
3 order is filed and to make payments regularly as requested by Planet Kids  
4 Visitation Center. The above deposit may be waived or adjusted upon  
5 application of the party and approval by the Court.  
6

7  
8 WARNING: FAILURE TO MAKE PAYMENT AS DIRECTED BY THIS ORDER MAY  
9 RESULT IN ENTRY OF JUDGMENT FOR NONPAYMENT FOR THE DELINQUENT  
10 AMOUNT, COSTS OF COLLECTION AND LEGAL FEES. FAILURE TO COMPLY WITH  
11 ANY TERM OR CONDITION WITHIN THIS ORDER MAY RESULT IN SUSPENSION OF  
12 VISITATION RIGHTS.

13 Written documentation may be kept by the above named supervised  
14 visitation center on attendance, and critical incidents.

15 In the event of any apparent conflict between this order and any Order  
16 of Protection. law enforcement is directed to enforce the Order of  
17 Protection.  
18

19 IT IS FURTHER HEREBY ORDERED:

20 1) that the Clerk of District Court provide a copy of this order to  
21 Planet Kids Visitation Center within 5 (five) business days after this order is  
22 filed.  
23

24 2) that Respondent shall furnish photographic identification upon  
25 request by Planet Kids Visitation Center staff prior to receiving parenting  
26 contact pursuant to this order, and Respondent shall otherwise comply with  
all rules of Planet Kids Visitation Center or parenting contact may be  
suspended by Planet Kids Visitation Center subject to review by this Court.

3) that Respondent shall notify Planet Kids Visitation Center at  
least 24 hours in advance of canceled visits. Respondent must contact

Planet Kids Visitation Center to reschedule any visit cancelled without advance notice.

4) that during the exchanges the Respondent shall not attempt to communicate with Petitioner except as provided by protocols in effect at Planet Kids Visitation Center. The Respondent shall be charged with knowledge of such protocol in advance of any supervised parenting exchange.

5) Planet Kids will issue a report of visits that occur or are missed. They shall relate the time that the visit occurred and ended as well as any unusual incidents. Planet Kids shall have the power to either cancel or terminate early a visit based on the failure of the visiting parent to follow rules. In the event a visit is cancelled or terminated earlier because of an incident involving center rules, a report will issue.

DATED this 20<sup>th</sup> day of September, 2007.

  
District Court Judge

cc: Attorney and Parties of Record

Planet Kids  
Attn: Kelly Slattery-Robinson  
Planet Kids Coordinator,  
337 Stephens (Entrance on Florence St.)  
P. O. Box 7243  
Missoula, MT 59807  
(406) 542-3346  
(406) 543-6777 FAX



1 6. Report: The Guardian Ad Litem shall submit a written report for  
2 all hearings and proceedings relating to this cause and assure proper  
3 representation of the child(ren) at said hearings.

4 7. Immunity/Court File: The Guardian Ad Litem is an agent of this  
5 Court and as such is granted judicial immunity and granted authority to  
6 withdraw the Court file in this cause.

7 8. Assignments, Etc.: The Guardian Ad Litem may direct each party  
8 to complete assignments, including reading recommended literature, viewing  
9 videos, and/or participating in relevant seminars, and reviewing the Fourth  
10 Judicial District's Child Visitation guidelines. Each party shall provide to the  
11 Guardian Ad Litem written certification that he/she has completed the  
12 assignments as directed by the Guardian Ad Litem.

13 9. Payment for Service of Guardian Ad Litem: The Guardian ad Litem  
14 shall serve without compensation as part of the Western Montana Bar Pro-  
15 Bono program. All fees and costs associated with the Guardian ad Litem,  
16 including copies of pleadings, are hereby **ORDERED WAIVED**.

17 DATED this 6th day of October, 2009.

18   
19 JOHN W. LARSON, District Judge

20 Copies of the foregoing were sent to:

21 Joel E. Porter-Smith  
22 1635 Mullan Trail  
23 Missoula, MT 59808

24 Karen Townsend, Esq.  
25 1450 Pattee Canyon Road  
26 Missoula, MT 59803

Douglas G. Skjelset, Esq.  
P. O. Box 4102  
Missoula, MT 59806  
(406) 549-9524

**WELLS & McKITTRICK, P.C.**

Jamie J. McKittrick  
222 East Pine Street  
P.O. Box 9410  
Missoula, Montana 59807  
Phone: (406) 728-7177  
Guardian Ad Litem

**MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY**

**IN RE THE PARENTING OF G.H.**

Dept. No. 3  
Cause No. DR.

B.H. A Minor Child

**GUARDIAN AD LITEM'S  
REPORT TO THE COURT**

Petitioner,

T.M. and

Respondent.

COMES NOW, the Guardian Ad Litem, Jamie J. McKittrick, in the above-named and makes the following preliminary report to the Court in accordance with § 50-4-215, M.C.A. and this Court's Order Appointing Guardian ad Litem filed July 29, 2008.

In order to prepare this report the GAL has met with and talked with KC, JF, BH, TM, TR, LW, TV, JH, ZH, MH, GH, PB, KT, and DT. The GAL has also personally met with the G.H.'s kindergarten and first grade teachers at Hellgate Elementary School and received documentation from the school. The resource room teacher was also present during this meeting. The GAL attempted to contact S.H. LS, ML, and JH. The GAL was unable to reach these individuals for various reasons. The GAL also attempted to contact a gentleman in Post Falls, Idaho who worked in the school systems and is a little person and who has a child who is a little person who went to schools in that area. The GAL sent several email messages but did not received a return email with phone number.

The GAL has met G.H. at T.M.'s residence during a home visit. T.M.'s mother D.T. was present during the visit. The GAL also met personally with J.H. and B.H. Haines during a home visit at their residence in Seeley Lake.

The GAL has reviewed the complete Court file as well as extensive

documentation regarding dwarfism and the Little People of America organization. The GAL has reviewed all information provided by both parties and has received G.H.'s school records. The GAL also received and reviewed a letter from M.L. after several attempts at reaching one another by phone.

The GAL was asked to make a recommendation as to whether it would be in G.H.'s best interests to move to Couer d'Alene with his mother, T.M. T.M. advised she wanted to move to Couer d'Alene primarily for family support and financial reasons. T.M. was struggling financially in Missoula. In addition, T.M. emphasized that a move to Couer d'Alene would take her and G.H. closer to Shriner's Hospital and to the Western Chapter of the Little People of America headquarters. T.M. further felt that the school system in Idaho would be more accommodating for G.H.. B.H. objected to the move and requested that G.H. remain in Montana and reside primarily with him in Seeley. Based upon the investigation, interviews and material reviewed, the GAL hereby submits the following report:

**G.H.** - G.H. is an eight year old boy who attends school at Hellgate Elementary. G.H. is a little person and has various struggles related to his stature. G.H. has no significant health concerns at this point. When the GAL met him, he appeared to be a very happy child. He showed the GAL his bedroom and carried on a conversation with the GAL.

Based on all reports, G.H. enjoys spending time with both parents and enjoys regular and consistent time with both families.

**T.M.'S CONCERNS** - T.M.'s primary concern throughout this process has been what is in the best interest of the G.H.. When the GAL was initially appointed, T.M. expressed a desire to move to Couer d'Alene. Her mother and step father reside in Couer d'Alene and the plan was to move in with them while T.M. transferred employment with Costco and got enrolled in school. T.M. indicated there were financial and emotional support reasons for wanting to move out of the Missoula area. The financial reasons provided were that the home she purchased was too expensive and she was going to have to sell the home. T.M. currently works two jobs, at Costco and Fred's Lounge as a cocktail waitress, in order to pay all her bills. In Couer d'Alene, she would have the ability to

spend more time with G.H.

In addition, T.M. indicated that she needed the support from her family. She indicated it would be beneficial for both her and G.H. to be in an area wherein she had family so that G.H. could have that experience. It appeared T.M. was also in a position of needing the support of her family.

T.M. further indicated that residing in Couer d'Alene would be beneficial for G.H. as the schools in that area were more equipped to handle children with special needs. She provided the names of the schools and information relative to their ability to accommodate. T.M. had information that other little people had attended school in that area and that the school system was therefore much more able to accommodate G.H.'s needs. T.M. was somewhat frustrated with Hellgate Elementary and their failure to provide for some of G.H.'s needs. T.M. also felt that a move to Couer d'Alene would be beneficial as the Western Chapter for the Little People of America organization is in Spokane, Washington. She had become a part of the organization and has taken G.H. to several group meetings. Because the Western Chapter is in Spokane, G.H. would have the ability to become involved with various little people activities, such as soccer.

Finally, T.M. felt that a move to Couer d'Alene would be beneficial because Shriner's Hospital is located in Spokane, Washington. T.M. indicated that although G.H. does not have any problems at present, he is more prone to have orthopedic problems in the future. T.M. further indicated that there may be a need for genetic type testing and other medical issues that could arise in the future.

T.M. clearly indicated G.H. was close with his father, B.H. Haines, but indicated she has been the primary parent ensuring G.H. gets homework done and ensuring all his special needs are met. T.M. indicated B.H. sees G.H. every weekend and that they negotiate alternate times on occasion. T.M. does not feel B.H. is as informed as he should be about G.H.'s needs such as his susceptibility for joint and bone problems in the future. She feels B.H. allows him to do activities that he should not be doing and that G.H. does not tell his dad when his legs hurt or when he simply cannot keep up.

**B.H.'S CONCERNS** - At the initial meeting, B.H. indicated he was concerned with T.M.'s notice of intent to move to Couer d'Alene. B.H. advised he resides in Seeley

Lake with his wife J. and his step son T. and son T. who is sixteen months old. B.H. indicated there is no written agreement but that the parties have a verbal agreement that T.M. will parent during the week and B.H. parents G.H. every weekend. B.H. indicated he has G.H. almost every weekend but that he and T.M. try to negotiate if there are plans in either home.

B.H. feels G.H. is struggling with math and reading in school. He was in Title I over the summer months to assist him in advancing with his reading. G.H. participates in YMCA soccer, Missoula Children's Theater and enjoys fishing, hunting, camping, 4-wheeling and snowmobiling.

B.H. indicated he feels T.M. is a good mother but that she should remain in Missoula for G.H.'s benefit. If T.M. wants to move, B.H. feels G.H. should remain with him full-time and visit T.M.. B.H. indicated that G.H. not only has step and half siblings, but grandparents, aunts, uncles and cousins all residing in the Seeley Lake area. B.H. advised he has a sister who lives in Great Falls with her two children. They spend significant time in Seeley. His brother and two children are in Seeley and his sister-in-law works in Corvallis during the week but travels to Seeley on the weekends. The grandparents also reside in the area. B.H.'s wife J. is a special education teacher in Seeley Lake.

B.H. felt he could provide more stability for G.H. He stated he has been residing in his home since 1999 and G.H. would have his own bedroom.

B.H. expressed concern that during the week he had learned T.M. was leaving G.H. overnight with a neighbor or cousin while she worked at Fred's Lounge. He feels G.H. stays with others fairly regularly. B.H. also advised he is concerned T.M. has moved six times in the past eight (8) years. He advised T.M. started school years ago when she initially left G.H. with him in Seeley Lake. He is concerned she still has not completed her education. B.H. feels there are too many "what ifs" with her intent to move.

When asked about G.H.'s special needs, B.H. advised G.H. is a dwarf. He advised G.H. needs regular eye check ups and is more prone to problems with his bones and joints. He advised that given G.H.'s stature, his vertebrae are much closer

GUARDIAN AD LITEM'S REPORT TO THE COURT

together and this can cause problems with extreme type jumping etc . . . B.H. advised G.H. went to Shriner's Hospital a few years ago, but has not returned him since. B.H. was aware T.M. felt it was necessary to be closer to Shriner's Hospital, but feels G.H. can get medical care in Missoula and that it is easy to drive to Shriner's if necessary.

B.H. also indicated T.M. had become involved with the Little People of America. He advised T.M. took G.H. to a seminar last year and that G.H. did not interact very much with the other children. G.H. came back really quiet in B.H.'s opinion. B.H. felt that seeing some of the other little people and the various deformities that can occur scared him. B.H. advised he felt it beneficial for G.H. to be involved but hoped T.M. did not push it too much. G.H. was scheduled to go to another conference with T.M. in August 2008.

### **VISITATION**

The parties have been following a schedule wherein T.M. has G.H. during the week and B.H. picks him up Friday after school and has him until Sunday evening or Monday morning when he takes him to school. Although this schedule has allowed G.H. to spend consistent and regular time with both parents, it was clear after meeting with school personnel that G.H. was missing out on spending time with his peers and friends during the weekends. Both parents need to recognize that as G.H. gets older, particularly with his special needs, they need to make more of an effort to ensure he is attending birthday parties, having kids over for sleepovers, taking kids swimming etc .. Although consistent time with both parents is important, G.H. needs interaction with his peers and needs sometime wherein he can spend time with his peers.

### **WITNESS INTERVIEWS**

1. **T.R.:** - T.R. is T.M.'s cousin. T.R. advised T.M. is a very good mother and feels T.M.'s ability to move to Couer d'Alene is very important for the support. T.R. advised she feels both T.M. and B.H. are good parents. T.R. advised she feels G.H. spends a lot of time with his grandparents when in Seeley Lake and understands T.M. is concerned about this as well.

2. L.W. - L.W. knows T.M. as her daughter went to kindergarten with G.H.. L.W. advised she is aware G.H. is having difficulties in Hellgate Elementary as the other children are making fun of him and teasing him on the playground. She does not feel Hellgate has assimilated G.H. very well. L.W. believes G.H. has difficulty with being a little person and that he struggles with being different. She advised G.H. has a very good sense of humor and is a great kid to be around.

L.W. feels a move to a larger community and larger school district would be beneficial for G.H.. She understands there are other little people in the school G.H. will be attending in Couer d'Alene.

3. T.V. - T.M. is T.V.'s niece. He advised he knows very little about B.H. T.V. advised G.H. is a wonderful nephew and T.M. is a very devoted mother. He feels a move would be beneficial for T.M. and G.H. as a family. T.M. and her mother are very close and her mother could offer T.M. some emotional support as she is getting back into school. T.V. does not believe T.M. would be asking to move with G.H. if she did not feel it was in his best interests.

4. Z.H. - Z.H. is B.H.'s mother. Z.H. advised T.M. lived in Seeley Lake when G.H. was born. T.M. wanted B.H. to move to Missoula and when he would not go, she moved and left G.H. with B.H. when he was just three months old. B.H. used K.T. as daycare and Z.H. assisted in caring for G.H. while B.H. worked. When G.H. was 2 1/2 to 3 years old, T.M. and B.H. agreed she could take G.H. to Missoula. At this point, B.H. began seeing G.H. every weekend.

Z.H. advised she feels G.H. is somewhat behind in school, particularly in the area of reading.

Z.H. stated she often has G.H. on Sundays when all the grandchildren come over. She advised his cousins really look out for him. She advised that when G.H. is tired, he will come inside and rest and watch a movie. Z.H. feels G.H. cannot walk long distances and the family ensures they are prepared for this if hiking or just out playing. Z.H. advised she never sees G.H. attempt to over exert himself. On one occasion this

past summer Z.H. recalled G.H. throwing a fit because B.H. would not let him run. G.H. insisted and B.H. finally relented. Z.H. advised G.H. finished the race and was very proud of himself.

Z.H. believes the Little People of America organization is not a sufficient reason to move G.H. out of the area and so far from B.H. She feels the parties need better communication. Z.H. further believes the parties need a better holiday schedule for G.H.. For the most part, they will attempt to share Thanksgiving and Christmas. This keeps G.H. from enjoying the day when he is traveling to and from Missoula or Seeley.

5. J.H. - J.H. is B.H.'s wife. J.H. advised she is concerned with G.H. moving to Couer d'Alene. B.H. and G.H. have a special relationship, there are lots of relatives in Seeley Lake, G.H. knows lots of kids in the area and is friends with them. G.H. loves his weekends in Seeley and enjoys partaking in activities the family is doing.

J.H. believes she and B.H. are more than capable of meeting G.H.'s medical needs. She does not feel G.H. needs to be in close proximity to any one doctor on a daily and regular basis. J.H. advised G.H. expresses when his hips or legs are sore. If the family is doing something they will stop and ask if he is okay. J.H. feels they simply involve G.H. in all family activities and do not use his size as an excuse for him not to participate. They all enjoy being outdoors, hunting, fishing, 4-wheeling and camping. B.H. has a pack that he will carry G.H. in when and if he tires. J.H. advised she feels T.M. has the same perspective as she involves G.H. in TaeKwonDo and soccer.

J.H. advised it would be great if there were other little people in the Seeley Lake or Missoula area, but does not feel this is sufficient justification to move and take him away from B.H. and his side of the family. J.H. advised that the Little People convention somewhat scared G.H.. She advised she is not opposed to the Little People organization but feels that his participation will come in time when he is ready. J.H. is concerned that if G.H. moves out of the area, they would not see him regularly and feels it would be too easy, particularly in the winter, to come up with reasons why a visit should not occur.

J.H. explained she is a teacher and feels T.M. and B.H. enrolled G.H. in kindergarten somewhat early. She believes he is behind academically and because of

GUARDIAN AD LITEM'S REPORT TO THE COURT



P.B. believes T.M. has a lot of support in Missoula, but that she is struggling financially. She also feels there are more programs for G.H. in Couer d'Alene. P.B. believes T.M. would ensure B.H. spent time with G.H. even if allowed to move.

8. **K.T.** - K.T. babysat G.H. when he was just an infant. She advised B.H. was always around to pick G.H. up and drop him off. She felt G.H. had a good relationship with B.H.. When G.H. was about three years of age, she did not see him as much as he moved to Missoula with T.M..

K.T. feels B.H. took very good care of G.H.. A few days prior to talking with the GAL, K.T. advised G.H. was at her home. He was the same "happy go lucky kid" and was playing with all the kids, his cousins and his little brother.

9. **D.T.** - D.T. is T.M.'s mother. She advised that being in Couer d'Alene would open many doors for G.H. as there are many things available to him there that are not available in Missoula. She feels that more exposure to other little people would be beneficial and that the proximity to doctors would be beneficial.

D.T. advised she is worried that B.H. feels G.H. should move to Seeley Lake full time. She advised this would "kill" T.M. as T.M. is a wonderful mother and lives for G.H..

D.T. believes G.H. is struggling in school and that a move would be beneficial for this reason as well.

D.T. further believes it would be beneficial for G.H. to be closer to the Western chapter of the Little People of America. She feels he needs to be around more individuals who are dwarfs. D.T. states that T.M. does not push this issue with G.H. but does try to explain things to him when he wants to talk about it.

D.T. believes G.H. enjoys spending time with his father and knows B.H. loves G.H.. She advised they spend time doing many outdoor and family activities such as snowmobiling and 4-wheeling. She feels B.H. needs to be more aware of the spinal injuries G.H. could get doing certain activities. She advised bouncing is not good for his neck and is not sure if B.H. does not fully understand this fact or if he is simply

ignoring what T.M. is telling him. She feels B.H. simply wants G.H. to be normal. She recognizes G.H. needs to have fun, but B.H. needs to be more aware of the medical issues that could arise. D.T. feels T.M. lets G.H. do many activities but she keeps a very close eye on him.

D.T. further advised T.M. needs to sell her home in Missoula because she is financially unable to survive. She works two jobs just to pay her bills and continues to fall behind. If she moves to Coure d'Alene, she would reside with them for a period of time while starting work and getting back into school. This would be financially beneficial and emotionally beneficial for both T.M. and G.H..

D.T. stressed that G.H. needs contact with both families. He needs the consistent contact with both parents and both sets of grandparents and extended family. With this being said, however, the move is best for G.H. for a number of reasons.

#### **NOTICE OF INTENT TO MOVE TO WISCONSIN**

In February, 2009, T.M. advised B.H. of her intent to move to Wisconsin versus Couer d'Alene. The GAL received a phone call from B.H. with this information. The GAL then set a meeting with T.M.. T.M. had wanted to initially approach B.H. about the move and determine if he would agree prior to contacting the GAL.

B.H. advised he objected to T.M. moving to Wisconsin and again advised G.H. should reside primarily with him. B.H. advised he felt T.M.'s moving was not in G.H.'s best interests and that a move to Wisconsin would be detrimental to G.H. as G.H. would not see one or the other of his parents on a regular basis. B.H. advised he felt it was not good for G.H. to leave the State of Montana and this area but that it was also not in his best interest to move to Wisconsin.

During their meeting, T.M. advised the GAL she was moving to Birchwood, Wisconsin. She advised she was getting married at the end of July 2009 to A.Z. She advised A.Z. is an over the road trucker who assists in running his family farm in Wisconsin. He drives truck to earn extra money in the winter months. She advised she met him here in Missoula and they began dating. She had not introduced him to G.H. prior to becoming engaged.

T.M. advised she felt a move to Birchwood was in G.H.'s best interests. She

various activities with his friends because of the time he spent in Seeley every weekend. The GAL spoke with both parents about the fact that perhaps an every other weekend arrangement with additional time for B.H. during the summer and over spring break would be beneficial for G.H. so that he could focus some time on friends and the social aspects given that he was getting older.

The GAL would also note that she was inclined to recommend that G.H. be allowed to move to Couer d'Alene with T.M. The GAL felt that T.M. was struggling both financially and emotionally without extended family support. These struggles were clearly having an effect on G.H. as T.M. was working two jobs, one during certain evenings of the week. While T.M. worked a second job, G.H. would stay with a neighbor or cousin. Being in a community wherein T.M. would have the support of her mother, step father and an aunt and uncle appeared to be something that would benefit all involved. The GAL further felt that a move of this nature would not take away from B.H.'s time in any significant fashion. B.H. could still parent G.H. every other weekend and the GAL felt that the parties could look at the school calendar so B.H. would parent G.H. during any long weekends of the various months. B.H. would get additional time over spring break and would parent G.H. all summer. The GAL did not feel that a move to Couer d'Alene was necessary in order for G.H. to be closer to the Little People of America Western Chapter or to be near to the Shriner's Hospital. G.H. has no immediate medical needs that would require such a move and many individuals travel from Missoula to Spokane for various routine medical check ups. The GAL believes that G.H. can grow up healthy and happy without being close to or in an area wherein there are many little people.

Notwithstanding the GAL's first impressions, when the GAL learned T.M. anticipated moving to Wisconsin and was getting married, she was surprised. The GAL had not been told T.M. was even dating an individual named A.Z. and he was not such a significant part of her life that he was even put on T.M.'s reference list. Another concern was that T.M. had been so anxious to move to Couer d'Alene to attend school and to provide her and G.H. with family support at the beginning of the process. The fact that within an approximate six month period, she was engaged and moving to

Wisconsin was of grave concern for the GAL.

B.H. has consistently advised the GAL that T.M. cannot remain in any one location for an extended period of time. This was his main concern with her move to Couer d'Alene. He felt she would remain with her parents for a short period of time and then move to another home. He felt her remaining in Couer d'Alene was skeptical and felt that once G.H. was residing outside Missoula that T.M. would feel she could move anywhere with him.

The GAL has many concerns relative to T.M. taking G.H. to Wisconsin. T.M. has presented both B.H. and the GAL with the best parenting arrangement she could offer under the circumstances. She has offered all summer, spring break and certain times when there would be long weekends. T.M. has thoroughly researched the school systems and is aware G.H. could see doctors at the Mayo Clinic. She has also been in contact with the Little People Chapter in that area.

Notwithstanding the research and T.M.'s desire to take G.H. with her, the GAL feels it would be in G.H.'s best interests at this point to remain in the State of Montana and to reside primarily with his father B.H. in Seeley Lake. It is recommended that T.M. parent G.H. on alternating Thanksgiving and Christmas, spring break and all summer from five days after school lets out until five days before school begins. If there are longer breaks from school, T.M. should have an opportunity to travel to Couer d'Alene for visit with G.H. at her parents' residence or in the Missoula area etc. T.M. should pay for all transportation related to visits and airfare for both her and G.H.. B.H. should assist by traveling to Couer d'Alene if T.M. is able to visit or in taking B.H. to that area so he can travel to Wisconsin. Child support should be calculated. B.H. should be responsible for ensuring G.H. receives any regular medical care/treatment that is necessary for his dwarfism. The parties shall cooperate in ensuring G.H. remains involved in the Little People of America organization and the various activities that they offer. B.H. should ensure he is fully aware of all issues related to G.H.'s dwarfism so that he can ensure G.H. is not undertaking an activity that would be detrimental for him.

With G.H. residing in Seeley Lake, T.M.'s mother and step-father should be entitled to visit so long as these visits are arranged with B.H. G.H.'s remaining in

Montana will ensure G.H. continues to have continued and regular contact with extended family. If he were to move to Wisconsin, he would see B.H. only sporadically and would see his maternal and paternal relatives only very sporadically. He would be moving to an area wherein neither he nor T.M. know anyone other than A.Z., T.M.'s fiancée. G.H. has only recently met A.Z. and although it appears he likes A.Z., it would be a stretch for the GAL to state he has a bond with or a relationship with A.Z. G.H. has not traveled to Wisconsin and does not know any of A.Z.'s family. G.H. has no friends in that area and has not seen doctors or other medical personnel in that area. As stated above, G.H. is also not in need of regular medical care. The GAL recognizes that while this is a wonderful time for T.M., a move of this nature simply does not appear to be in G.H.'s best interests.

G.H. currently struggles in school, however, this is not sufficient reason for him to move to Wisconsin. Wisconsin presumably has a very good school system and the system appears well equipped to handle G.H.'s needs. The GAL believes G.H.'s needs can be adequately handled by transferring to Seeley Lake. J.H., his step-mother, teaches at the school and is very familiar with G.H. and his needs, both physical and academic. If she needs additional information to assist G.H., this will be readily available to her and all other personnel. G.H. already knows children attending school in Seeley Lake and has cousins attending school in that area. When T.M. took a February 2009 trip to Wisconsin she left G.H. in B.H.'s care. B.H. had the option of taking him into Missoula each day for school, but T.M. had indicated G.H. could simply miss school if that was not possible. B.H. apparently asked G.H. about going into Missoula for school or questioned him on whether he wanted to sit in at Seeley Lake for the week. G.H. wanted to go to Seeley and sat in on classes and from B.H.'s reports enjoyed his week at school.

The GAL recommends that G.H. be allowed liberal and frequent contact with T.M. by phone. If T.M. contacts G.H. and leaves a message, B.H. should ensure G.H. returns the phone call as promptly as possible. T.M. should also have G.H. return calls when he is spending time with her in Wisconsin.

The GAL is aware T.M. has submitted an amended notice of intent to move giving

the option of Wisconsin or Couer d'Alene. This is somewhat confusing for the GAL given that T.M. just returned from a trip to Wisconsin and drafted a letter indicating that she was busy with marriage plans for her summer wedding. The GAL would not recommend that G.H. move to Couer d'Alene with T.M. at this point. Given her change of heart and notice to move to Wisconsin, the GAL believes that G.H. needs the stability of residing with B.H. in Seeley Lake.

The GAL would note she believes G.H. is attached to both parents and believes it in G.H.'s best interest for both parents to remain in this area. The GAL further agrees with B.H. when he said that there is not good outcome for G.H. in this situation. G.H. will likely struggle if T.M. moves and he remains in Seeley, but he will also likely struggle if he goes with T.M. and sees B.H. only sporadically. Both parents need to watch for signs that G.H. is struggling with being away either parent and ensure they are communicating with one another in this regard. It is recommended G.H. see a counselor if necessary and that both parents ensure they follow up on this.

The GAL would recommend that pending T.M.'s marriage in July and her move over the summer to Wisconsin that she parent G.H. during the week and that B.H. exercise visitation every other weekend. This will allow T.M. some additional and quality time with G.H. prior to her leaving.

The GAL would finally recommend that both parties attend the Families First classes, Communicating with the Other Parent and Shared Parenting. It would be beneficial if T.M. attended these classes prior to her traveling to Wisconsin.

DATED this 18th day of March 2009.

/s/  
\_\_\_\_\_  
Jamie J. McKittrick  
P.O. Box 9410  
Missoula, Montana 59807  
Phone: (406) 728-7177  
Guardian Ad Litem

## MONTANA FOURTH JUDICIAL DISTRICT PARENTING GUIDELINES

A powerful cause of stress, suffering, and maladjustment in children of dissolution is not simply the dissolution itself, but continuing conflict between the parents before, during and after the dissolution. To minimize conflict over the children, the parents should agree on a parenting arrangement that is most conducive to the children's having frequent and meaningful contact with both parents with as little conflict as possible. When parents' maturity, personality and communication skills are adequate, the ideal arrangement is reasonable parental contact upon reasonable notice, since that provides the greatest flexibility. The next best arrangement is a detailed parenting agreement made by the parents to fit their particular needs and, more importantly, the needs of the children. If the parents are unable to agree, however, the following guidelines will help the parents in knowing what the presiding judge in the Fourth Judicial District believes are generally reasonable, unless special circumstances require a different arrangement. (See Paragraph 1.17 below.) Unless these guidelines are incorporated in a court order, they are not compulsory rules, only a general direction for parents. In the event parental contact becomes an issue in court, the judge reserves the right to set whatever parenting schedule best meets the needs of the children in that case.

### 1. GENERAL RULES

Parents should always avoid speaking negatively about the other and should firmly discourage such conduct by relatives or friends. In fact, the parents should speak in positive terms about the other parent in the presence of the children. Each parent should encourage the children to respect the other. Children should never be used by one parent to spy on the other. Parents should establish the basic rules of conduct and discipline to be observed by both parents and step-parents, so that the children do not receive mixed signals.

Children will benefit from continued contact with all relatives and family friends on both sides of the family for whom they feel affection. Such relationships should be protected and encouraged. But relatives, like, parents, need to avoid being critical of either parent in front of the children. Parents should have their children maintain ties with both the maternal and paternal relatives. In Montana, grandparents have a legal right to reasonable contact with their grandchildren, if it is in their best interests. Usually the children will visit with the paternal relatives during times the children are with their father and with the maternal relatives during times they are with their mother.

Parents should be discouraged from making residential changes that are disruptive to a child's lifestyle, where the parents have been or are going through a contentious dissolution/parenting case.

When the parents are sharing in the parenting of a child, or at any time prior to the entry of a decree, and both parents reside in the Fourth Judicial District, the Court will consider a change of the child's residence to a location outside the Fourth Judicial District as having a significant effect upon the child's relationship to family members and others and adjustment to his/her home, school, and community. The Court will also consider and balance the Constitutional right of the parent to travel. When the custodial parent moves out of the Fourth Judicial District, the child's residence shall not be moved outside the Fourth Judicial District without an order from the Court after hearing or upon written stipulation of the parties that is approved by the Court. The Court will consider keeping the child in the Fourth Judicial District as a positive development for the child based upon legitimate, case-specific circumstances which must be presented to the Court at a hearing with all parties present.

In cases where both parents resided in the same community at the time of separation, and then one parent left the area, thus changing the pattern of parental contact, the court will consider imposing the travel costs for the children necessary to facilitate future contact, on the parent who moved. The court will also consider other factors, however, such as the economic circumstances of the parents and the reasons prompting the move.

**1.1 Parental Communication.** Parents should always keep each other advised of their home and work addresses and telephone numbers. As far as possible, all communication concerning the children shall be conducted between the parents themselves in person, or by telephone at their residences and not at their places of employment. Consistent with our emphasis on improved parental communication, it is suggested that parents communicate well in advance about moves that will impact schooling or visitation.

**1.2 Grade Reports and Medical Information.** Parents shall provide one another with grade reports and notices from school as they are received. Parents shall communicate independently with the school and with the children's doctors and other professionals regarding the children. Each parent shall immediately notify the other of any medical emergencies or serious illnesses of the children. Each parent shall notify the other of all school or other events (like Church or Scouts) involving parental participation. If the child is taking medications, each parent shall provide or be provided with a sufficient amount of medication and the appropriate instructions.

**1.3 Clothing.** Parents shall send an appropriate supply of children's clothing with them, which shall be returned clean (when reasonably possible), with the children. Parents shall advise, as far in advance as possible, of any special activities so that the appropriate clothing may be sent.

**1.4 Withholding Support or Parental Contact.** Neither parental contact nor child support is to be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for non-compliance. Children have a right both to support and parental contact, neither of which is dependent upon the other. In other words, no support does not mean no parental contact and no parental contact does not mean no support. If there is a violation of either a parenting or a support order, the exclusive remedy is to apply to the court for appropriate sanctions.

**1.5 Adjustments in Parental Contact Schedule.** Although there is or there may be a specific schedule, the parties are expected to fairly modify parental contact when family necessities, illnesses or commitments reasonably so require. The requesting parent shall act in good faith and give as much notice as circumstances permit.

**1.6 Parent's Vacation.** Unless otherwise specified in a court order or agreed by the parties, each parent is entitled to a reasonable period of vacation time, usually equal to that of the other parent. In the instance of extended vacation periods, i.e., summer vacations, the parents shall communicate in writing on or before May 1 of each year their choices of vacation periods.

**1.7 Insurance Forms.** The parent who has medical insurance coverage on the children shall supply, as applicable, insurance forms and a list of insurer-approved or HMO-qualified health care providers in the area where the other parent is residing. A parent who, except in an emergency, takes the children to a doctor, dentist or other provider not so approved or qualified should pay the additional cost thus created. However, when there is a change in insurance which requires a change in medical care providers and a child has a chronic illness, thoughtful consideration should be given by the parties to what is more important: allowing the child to remain with the original provider or the economic consequences of changing. When there is an obligation to pay medical expenses, the parent responsible therefor shall be promptly furnished with the bill by the other. The parents shall cooperate in submitting bills to the appropriate insurance carrier. Thereafter, the parent responsible for paying the balance of the bill shall make arrangements directly with the health care provider and shall inform the other parent of such arrangements. Insurance refunds should be promptly turned over to the parent who paid the bill for which the refund was paid.

**1.8 Child Support Abatement.** Child support, once ordered shall not abate unless a court order otherwise provides. The only way child support can be changed is by Court Order. Parents cannot agree to a change in support without Court approval. The purchase of clothing, food or other necessities do not constitute a deduction from Court-ordered child support.

**1.9 Missed Parental Contact.** When scheduled parental contact cannot occur due to events beyond either parents' control, such as illness of the child or of the parent exercising contact with the child, a mutually agreeable substituted parental contact date shall be arranged, as quickly as possible. Each parent shall timely advise the other when parental contact cannot be exercised. Missed parental contact should not be unreasonably accumulated.

**1.10 Parental Contact a Shared Experience.** Because it is intended that parental contact be a shared experience between siblings and, unless these Guidelines, a court order, or circumstances, such as age, illness, or the particular event, suggest otherwise, all of the children shall participate in any particular contact.

**1.11 Telephone Communication.** Telephone calls between parent and child shall be liberally permitted at reasonable hours and at the expense of the calling parent. Parents may call the children at reasonable hours during those periods the children are with the other parent. The children may, of course, call either parent, though at reasonable hours, frequencies and at the cost of the parent called if it is a long distance call. During long vacations the parent with whom the child is on vacation is only required to make the child available to telephone calls every five days. At all other times the parent the child is with shall not refuse to answer the phone or turn off the phone in order to deny the other parent telephone contact. If a parent uses an answering machine, messages left on the machine for the child should be returned. Parents should agree on a specified time for



calls to the children so that the children will be made available.

**1.12 Mail Contact.** Parents have an unrestricted right to send cards, letters and packages to their children. The children also have the same right with their parents. Neither parent should interfere with this right.

**1.13 Privacy of Residence.** A parent may not enter the residence of the other except by express invitation of the resident parent, regardless of whether a parent retains a property interest in the residence of the other. Accordingly, the children shall be picked up and returned to the front entrance of the appropriate residence. The parent dropping the children off should not leave until the children are safely inside. Parents should refrain from surprise visits to the other parent's home. A parent's time with the children is their own, and the children's time with that parent is equally private.

**TERMINOLOGY IN THE FOLLOWING SECTIONS INCLUDES PRIMARY CARETAKER, DESIGNATING THAT PERSON WITH WHOM THE CHILD SPENDS THE GREATER PROPORTION OF TIME AND SECONDARY CARETAKER, DESIGNATING THAT PERSON WITH WHOM THE CHILD SPENDS A LESSER AMOUNT OF TIME.**

**1.14 Children Under Age Five.** Infants (children under eighteen months of age) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary caretaker who provides a sense of security, nurturing and predictability. Generally overnight visits for infants and toddlers are not recommended unless the secondary caretaker is very closely attached to the child and is able to provide primary care. Older preschool age children (three to five) are able to tolerate limited separations from the primary caretaker. The following guidelines for children under age five are designed to take into account the child's developmental milestones as a basis for visitation. Since children mature at different rates these may need to be adjusted to fit the child's unique circumstances. These guidelines may not apply to those instances where the parents are truly sharing equally all the caretaking responsibilities for the child and the child is equally attached to both parents. Yet in the majority of situations where there is a primary caretaker and a secondary caretaker who has maintained a continuous relationship with the child but has not shared equally in child caretaking the following guidelines should generally apply:

**A. Infants " Birth to Six Months.** Children need to have affectionate bonds with both parents. Overnight visits are not recommended. Time with the secondary caretaker should be spent where the child lives, as going back and forth between homes causes tension for the child. The infant's eating and sleeping routine should not be interrupted. Alternate parenting plans: (1) Three two-hour visits per week, with one weekend day for six hours; or (2) Three two-hour visits per week, with one overnight on a weekend for no longer than a twelve hour period, if the child is not breast feeding and the secondary caretaker is capable of providing primary care.

**B. Infants " Six to Eighteen Months.** Predictability and routine are important at this age. Overnight visits are still not recommended, but can be considered if the infant is going with older brothers or sisters the infant knows and trusts. Alternate parenting plans: (1) Three, three-hour visits per week with one weekend day for six hours; or (2) Same as (1), but with one overnight not to exceed twelve hours, if the child is not breast feeding and the secondary caretaker is capable of providing primary care; or (3) Child spends time in alternate homes, but spends significantly more time at one of them and no more than two twelve-hour overnights per week at the other. This arrangement should be considered only for mature, adaptable children and very cooperative parents.

**C. Toddlers " Eighteen to Thirty-Six Months.** Children start to learn that things and people continue to exist even when the child can't see them. A common fear is that the primary caretaker will disappear and they may cry when a parent leaves them. Longer periods with the secondary caretaker can begin. Short visits (2-4 hours) away from the child's home are permissible, however, the child needs to take favorite things with him/her (blanket or stuffed animal or pacifier, etc.). At this age children do not understand time, or days of the week, or that they will see mother or father "tomorrow" or in "two days" or on "Sunday." When away from the primary caretaker they may feel anger and a powerful sense of loss and often do not understand why mother or father isn't there. Alternate parenting plans: (1) The secondary caretaker has the child up to three times per week for a few hours on each visit, on a predictable schedule; or (2) Same as (1) but with one overnight per week; or (3) Child spends time in alternate homes, but with more time in one than the other with two or three overnights spaced regularly throughout the week. This requires an adaptable child and cooperative parents.

**D. Preschoolers " Three to Five Years Old.** The most important thing is predictability. Children can usually tolerate two days away from the primary caretaker and they should see the secondary caretaker at least once each week. Children still have a strong need to take familiar things with them. Alternate parenting plans: (1) One overnight visit (i.e. Saturday morning to Sunday evening) on alternate weekends and one midweek visit with the child returning to the primary caretaker's home at

least one-half hour before bedtime; or (2) Two or three nights at one home, spaced throughout the week, the remaining time at the other home. In addition, for preschoolers, a vacation of no longer than two weeks with the secondary caretaker

#### **1.15 Pre-Teens and Teenagers.**

**A. Six to Twelve Years.** School age children need to see the secondary caretaker one or more times each week, and seem happiest with several visits each week. Children this age will want their own things at each home, but will wish to take some things back and forth with them for their own security. At about age seven, a child can cope better with longer periods of parental contact during summer months because they understand about time and can count and can understand what a week or month is.

**B. Thirteen Years and Up.** Friends and social activities are very important at this age. A decrease in the number of parental exchanges may be helpful. Teenagers have no need for long visits and once or twice a week for a few hours may be sufficient. One of the things teenagers need to do is learn to "separate" from parents and to achieve autonomy. They still need predictability and routine for their visits. Teens should be consulted in deciding on time-sharing plans. Teenagers tend to want one home base.

**1.16. Children in Day Care.** In families where a child has been in day care prior to the parental separation, the child may be able to tolerate flexible visits earlier because the child is more accustomed to separations from both parents. The secondary caretaker who exercises contact of a child under age five should not during the period of parental contact place the child with a baby-sitter or day care provider. If the secondary caretaker cannot be with the child personally, the child should be returned to the primary caretaker. Visiting for short periods with relatives may be appropriate, if the relatives are not merely serving as baby-sitters.

**1.17. Parental Contact with Adolescents.** Within reason the parents should honestly and fairly consider their teenager's wishes regarding parental contact. Neither parent should attempt to pressure their teenager to make a parental contact decision adverse to the other parent. Teenagers should explain the reasons for their wishes directly to the affected parent, without intervention by the other parent.

**1.18. Day Care Providers.** When parents reside in the same community, they should use the same day care provider. To the extent possible the parents should rely on each other to care for the children when the other parent is unavailable.

#### **1.19. Special Circumstances.**

**A. Child Abuse.** When child abuse has been established and a continuing danger is shown to exist, all parental contact with the perpetrator of said abuse should cease or only be allowed under supervision, depending on the circumstances. Court intervention is usually required in child abuse cases.

**B. Spouse Abuse.** Witnessing spouse abuse has long-term, emotionally detrimental effects on children. Furthermore, a person who loses control and acts impulsively with a spouse, may be capable of doing so with children as well. Depending on the nature of the spouse abuse and when it occurred, the court may require an abusive spouse to successfully complete appropriate counseling before being permitted unsupervised parental contact.

**C. Substance Abuse.** Parental contact should not occur when a parent is abusing drugs/alcohol.

**D. Long Interruption of Contact.** In those situations where a parent has not had an ongoing relationship for an extended period, parental contact should begin with brief visits and a very gradual transition to the parental contact in these guidelines.

**E. Kidnapping/Threats.** Parents who have kidnapped or hidden the children or threatened to do so should have no parental contact or only supervised parental contact.

**F. Breast Feeding Child.** Forcibly weaning a child, whether breast feeding or bottle feeding, during the upheaval of parental separation is not appropriate for the physical health or emotional well-being of the child. Until weaning has occurred without forcing, a nursing infant should have parental contact of only a few hours each. A parent should not use breast feeding beyond the normal weaning age as a means to deprive the other parent of parental contact.

**G. A Parent's New Relationship.** Parents should be sensitive to the danger of exposing the children too quickly to new relationships while they are still adjusting to the trauma of their parent's separation and dissolution.

**H. Religious Holidays and Native American Ceremonies.** Parents should respect their children's needs to be raised in their faith and in keeping with their cultural heritage and cooperate with each other on parental contact to achieve these goals. These goals should not be used to deprive a parent of parental contact.

**I. Other.** The Court may limit or deny parental contact to parents who show neglectful, impulsive, immoral, criminal, assaultive or risk-taking behavior with or in the presence of the children.

**2. PARENTAL CONTACT WITH CHILDREN OVER AGE FIVE WHEN THERE IS SOLE PARENTING OR SHARED PARENTING AND PARENTS RESIDE NO MORE THAN 200 MILES APART**

**2.1 Weekends.** Alternate weekends from Friday at 5:30 P.M. to Sunday at 7 P.M.; the starting and ending times may change to fit the parents' schedules. Or an equivalent period of time if the secondary caretaker is not available on weekends and the child does not miss school. In addition, if time and distance allow, one or two midweek visits of two to three hours. All transportation for the midweek visits are the responsibility of the secondary caretaker.

**2.2 Mother's Day - Father's Day.** The alternate weekends will be shifted, exchanged or arranged so that the children are with their mother each Mother's Day weekend and with their father each Father's Day weekend. Conflicts between these special weekends and regular parental contact shall be resolved pursuant to Paragraph 1.9.

**2.3 Extended Parental Contact.** One-half of the school summer vacation. At the option of the secondary caretaker, the time may be consecutive or it may be split into two blocks of time. If the child goes to summer school and it is impossible for the secondary caretaker to schedule this contact time other than during summer school, that parent may elect to take the time when the child is in summer school and transport the child to the summer school session at the child's school or an equivalent summer school session in the secondary caretaker's community.

**2.4 Winter (Christmas) Vacation.** One-half the school winter vacation, a period which begins the evening the child is released from school and continues to the evening of the day before the child will return to school. If the parents cannot agree on the division of this period, the secondary caretaker shall have the first half in even-number years. If the parents live in the same community, in those years when Christmas does not fall in a parent's week, that parent shall have from Noon to 9 P.M. on Christmas Day. For toddlers and preschool age children, when the parents live in the same community, the parents should alternate each year Christmas Eve and Christmas Day so that the children spend equal time with each parent during this holiday period.

**2.5 Holidays.** Parents shall alternate the following holiday weekends: Easter, Memorial Day, the 4th of July, Labor Day and Thanksgiving. Thanksgiving will begin on Wednesday evening and end on Sunday evening; Memorial Day and Labor Day Weekends will begin on Friday and end on Monday evening; Easter weekend will begin on Thursday evening and end on Sunday evening; while the 4th of July, when it does not fall on a weekend, shall include the weekend closest to the 4th. Holiday weekends begin at 5:30 P.M. and end at 7 P.M. on the appropriate days.

**2.6 Children's Birthdays.** Like the holidays, a child's birthday shall be alternated annually between the parents. If the birthday falls on a weekend, it shall extend to the full weekend, and any resulting conflict with regular visitation shall be resolved pursuant to Paragraph 1.9. If the birthday falls on a weekday, it shall be celebrated from 3 P.M. to 9 P.M. (or so much of that period as the secondary caretaker elects to use).

**2.7 Parents' Birthdays.** The children should spend the day with the parent who is celebrating their birthday, unless it interferes with a secondary caretaker's extended visitation during vacation.

**2.8 Conflicts Between Regular and Holiday Weekends.** When there is a conflict between a holiday weekend and the regular weekend visitation, the holiday takes precedence. Thus, if the secondary caretaker misses a regular weekend because it is the primary caretaker's holiday, the regular alternating visitation schedule will resume following the holiday. If the secondary caretaker receives two consecutive weekends because of a holiday, regular alternating visitation will resume the following weekend with the primary caretaker. The parents should agree to make up missed weekends due to holiday conflicts.

**2.9. Parental Contact Before and During Vacations.** There will be no parental contact the weekend(s) before the beginning of the secondary caretaker's summer vacation visitation period(s), regardless of whose weekend it may be. Similarly, that parent's alternating weekend visitation(s) shall resume the second weekend after each period of summer vacation that year. Weekend visitation "missed" during the summer vacation period will not be "made up." During any extended summer visitation of more than three consecutive weeks, it will be the secondary caretaker's duty to arrange, for a time mutually convenient, a 48-hour continuous period of visitation for the primary caretaker unless impracticable because of distance.

**2.10. Notice of Canceled Parental Contact.** Whenever possible, the secondary caretaker shall give a minimum of three days' notice of intent not to exercise all or part of the scheduled parental contact. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the reason therefor, shall be given. The primary caretaker shall give the same type of notice when events beyond their control make the cancellation or modification of scheduled parental contact necessary. If the primary caretaker cancels or modifies a visit because the child has a schedule conflict, the secondary caretaker should be given the opportunity to take the child to the scheduled event or appointment.

**2.11. Pick Up and Return of Children.** When the parents live in the same community, the responsibility of picking up and returning the children should be shared. Usually the secondary caretaker will pick up and the primary caretaker will return the children to that parent's residence. The person picking up or returning the children during times of parental contact has an obligation to be punctual: to arrive at the agreed time not substantially earlier or later. Repeated, unjustified, violations of this provision may subject the offender to court sanctions.

**2.12. Additional Parental Contact.** Parental contact should be liberal and flexible. For many parents these guidelines should be considered as only a minimum direction for interaction with the children. These guidelines are not meant to foreclose the parents from agreeing to such additional parental contact as they find reasonable at any given time.

### **3. PARENTAL CONTACT OF CHILDREN OVER AGE FIVE WHEN SOLE PARENTING OR SHARED PARENTING AND PARENTS RESIDE MORE THAN 200 MILES APART**

**3.1 Extended Parental Contact.** All but three weeks of the school summer vacation period and, on an alternating basis, the school Winter (Christmas) vacation and Spring Break.

**3.2 Priority of Summer Break.** Summer break with the secondary caretaker takes precedence over summer activities (such as Little League) when the parental contact cannot be reasonably scheduled around such events. Even so, the conscientious secondary caretaker will often be able to enroll the child in a similar activity.

**3.3 Notice.** At least 60 days notice should be given of the date for commencing extended parental contact, so that the most efficient means of transportation may be obtained and the parties and the children may arrange their schedules. Failure to give the precise number of days notice does not entitle the primary caretaker the right to deny visitation.

**3.4 Additional Parental Contact.** Where distance and finances permit, additional parental contact, such as for holiday weekends or special events, are encouraged. When the secondary caretaker is in the area where the child resides, or the child is in the area where the secondary caretaker resides, liberal visitation shall be allowed and because the secondary caretaker does not get regular visitation, the child can miss some school during the visits so long as it does not substantially impair the child's scholastic progress.

1 John W. Larson, District Judge  
2 Fourth Judicial District Dept. 3  
3 Missoula County Courthouse  
4 Missoula, MT 59802  
5 (406) 258-4773

6 MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY  
7 IN RE THE PARENTING OF \_\_\_\_\_,  
8 a Minor Child

Dept. 3  
Cause No. DR-\_\_\_\_\_

9 \_\_\_\_\_,  
10 Petitioner,  
11 vs.

12 \_\_\_\_\_,  
13 Respondent.

14 **ORDER APPOINTING SETTLEMENT MASTER AND ORDER**  
15 **SETTING SETTLEMENT CONFERENCE**

16 The parties are hereby **ORDERED** to attend a settlement conference  
17 to be presided over by a Settlement Master. The role of the Settlement  
18 Master is to assist the parties in resolving any disputed issues. Settlement  
19 conferences are beneficial in that they allow the parties to play an active role  
20 in the outcome of their dispute, something that is unlikely in the event the  
21 Court decides what the outcome shall be. Each party is therefore expected  
22 to come to the conference with an open mind towards negotiating a solution.  
23 Please be advised that Rule 9(E) of the Rules of Practice of the Fourth  
24 Judicial District provides as follows:  
25  
26

1 No person present at a settlement conference, including the  
2 settlement master, shall be subject to examination concerning  
3 statements made by any person at the settlement conference.  
4 The parties will not subpoena or otherwise require the  
5 settlement master to testify regarding the settlement  
6 conference or the settlement master's opinions regarding the  
7 case.

8 The Court has referred the selection of a qualified attorney to act as  
9 the settlement master in this case to the Western Montana Bar Association  
10 Pro Bono Committee. The Committee has contacted the U of M Mediation  
11 Clinic and they are willing to act as the Settlement Master. Therefore,

12 IT IS HEREBY ORDERED that the University of Montana Mediation  
13 Clinic is hereby appointed as the settlement master in this case and may be  
14 reached at the address and phone number below. The settlement  
15 conference is set \_\_\_\_\_, 2011, at p.m. at  
16 the U of M Law School, Mediation Clinic.

17 The Settlement Conference will not be rescheduled unless there  
18 is a significant showing of good cause presented to the Court for a  
19 continuance.

20 FAILURE TO ATTEND THE MEDIATION CONFERENCE MAY  
21 RESULT IN SANCTIONS, INCLUDING THE ENTRY OF DEFAULT  
22 AGAINST THE ABSENT PARTY.  
23  
24  
25  
26

1 All fees and costs associated with this pro bono settlement  
2 conference, including copies of the motion or other pleadings at issue for  
3 the Settlement Master to review, are hereby **ORDERED WAIVED**.

4 The Settlement Master has the authority to withdraw the court file and  
5 allowed to make copies from the file free of charge.  
6

7 DATED this \_\_\_\_\_ day of January, 2011.  
8

9 \_\_\_\_\_  
10 JOHN W. LARSON, District Judge

11 Copies of the foregoing were sent to:

12 Attorney for Petitioner  
13 Attorney for Respondent

14 Eduardo R.C. Capulong, Director  
15 U of M Law School Mediation Clinic  
16 32 Campus Drive  
17 Missoula, MT 59812-6552  
18 (406) 243-6707  
19 (406) 243-4349 FAX  
20 Eduardo.Capulong@mso.umt.edu  
21  
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26